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Date of Decision : 19th of March, 2024

Gernal Singh and othersPetitioners

State of Punjab and othersRespondents

Sukhwinder Singh and othersPetitioners

State of Punjab and others ...Respondents

Present : Mr. Gurjinder Singh, Advocate
for the petitioners in CRM-M-54077-2023 and
for respondents No. 2 & 3 in CRM-M-54109-2023

Mr. Amandeep Sharma, Advocate
for the petitioner in CRM-M-54109-2023 and
for respondents No.2 and 3 in CRM-M-54077-2023.

Mr. J.S. Arora, DAG, Punjab.

PANKAJ JAIN, J. (ORAL)

These are two petitions filed under Section 482 Cr.P.C. arising out of version and cross-version. The petitioners herein are praying for quashing of FIR No.141, dated 02.12.2022 registered for the offences punishable under Sections 326, 34 of the Indian Penal Code, 1860 (for short, 'the IPC'), at Police Station Bhindi Saidan, Amritsar Rural, District

Amritsar and cross-case/GD No.29 dated 20.12.2022 registered for the offences punishable under Sections 326, 427, 506, 34 of the IPC of the same Police Station along with all subsequent proceedings arising therefrom.

2. While issuing notice of motion on 04.12.2023 in both the petitions, following order was passed :

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. The petitioners are seeking quashing of Cross case/GD No. 29 dated 20.12.2022, registered for offences punishable under Sections 326, 427, 506 and 34 of IPC at Police Station Bhindi Saidan, Amritsar Rural, District Amritsar in FIR No.141 dated 02.12.2022, registered for offences punishable under Sections 326 and 34 of IPC at Police Station Bhindi Saidan, Amritsar Rural, District Amritsar and all subsequent proceedings arising thereto on the basis of compromise.

Learned counsel for the petitioners contends that the matter already stands compromised vide compromise dated 03.10.2023 (Annexure P-3).

Notice of motion for 26.02.2024.

Mr. Tarun Aggarwal, Sr. DAG, Punjab, who is present in Court accepts notice on behalf of respondent No.1-State.

Mr. Amandeep Sharma, Advocate appears on behalf of respondents No.2 and 3 in CRM-M-54077-2023 and Mr. Gurjinder Singh, Advocate appears on behalf of respondents No.2 and 3 in CRM-M-54109-2023 and admits the fact of there being compromise between the parties.

In view of the above, the parties are directed to appear before learned Illaqa Magistrate/trial Court on 21.12.2023. On their doing so, the learned Illaqa Magistrate/trial Court shall record their statements and furnish its report to this Court by the next date of hearing on the following aspects:-

1. Number of persons arrayed as accused in the FIR.

2. Whether any accused is proclaimed offender?
3. Whether the compromise is genuine, voluntary and without any coercion or undue influence?
4. Whether the accused persons are involved in any other case or not?
5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/ complainants are there in the FIR.

A copy of the report be also sent to the Registrar Judicial of this Court.

Needless to say that in case for any reason the statements are not recorded on the aforesaid date, the learned Illaqa Magistrate/trial Court shall be at liberty to call the parties on any other date but not later than a week thereafter.

A photocopy of this order be placed on the file of other connected case.

3. Pursuant to the aforesaid order, report from Judicial Magistrate 1st Class, Ajnala dated 22.02.2024 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows :

“➤ From the aforementioned statements of the parties, it clearly appears that all the accused and the complainant(s)/victim(s) of both the cases are indeed the parties to the present compromise and that the said compromise inter-se the parties was, in fact, genuine, voluntary and the same had been effected without any pressure, coercion or undue influence. All the concerned had also joined the said compromise.

➤ As per the statement of Investigating Officer/ ASI Lakhwinder Singh, No.205/ASR (R), P.S. Bhindi Saidan, Ajnala, in the main FIR only 04 persons namely Sukhwinder Singh, s/o, Tarlok Singh, Visakha Singh, s/o, Tarlok Singh, Agyapal Singh, s/o, Visakha Singh & Jagroop Singh, s/o, Sukhwinder Singh were

arraigned as the accused and except for the same, there were no other accused involved in the said FIR. Also, Sewa Singh, s/o, Gurmej Singh and Gernal Singh, s/o, Gurmej Singh were the complainant(s)/victim(s) of the FIR.

➤ Likewise, in the cross-case, only **04 persons** namely Gernal Singh, s/o, Gurmej Singh, Gurmej Singh, s/o, Iqbal Singh, Gurjinder Singh, s/o, Kulwinder Singh, Sewa Singh, s/o, Gurmej Singh were arraigned as the accused and except for the same, there were no other accused involved in the present cross-case. Also, Visakha Singh, s/o, Tarlok Singh & Sukhwinder Singh, s/o, Tarlok Singh were the complainant(s)/victim(s) of the cross-case so lodged vide GD No. 29 of 20.12.2022.

➤ As per the information of the IO concerned, the aforementioned accused of both the cases were not declared as a proclaimed offender(s) and that no other case of any sort was pending against them.”

4. Since, it is a case of version and cross-version, the counsel who is representing the petitioners in one case, also represents the private respondents in cross-version case. Both counsels admit the fact of parties having compromised and state that they have no objection in case the FIR as well as cross-case/GD and all proceedings subsequent thereto against the petitioners are quashed.

5. Similarly Ld. State Counsel has stated no objection in case the FIR is quashed based upon the compromise.

6. I have heard Ld. Counsel for the parties and have carefully gone through the records of the case.

7. After considering judgment rendered by the Apex Court in **Gian Singh vs. State of Punjab and another, 2012(10) SCC 303, State of Madhya Pradesh vs. Laxmi Narayan and others (2019) 5 SCC 688, Kulwinder Singh & others vs. State of Punjab & another, 2007 (3) RCR (Criminal) 1052 and Ram Gopal and another vs. State of Madhya Pradesh, 2021(4) R.C.R. (Criminal) 322 (Criminal Appeal No.1489 of 2012 decided on 29th of September, 2021)**, the proposition of law that emerges from the aforesaid decisions rendered by Apex Court and this Court is :

- (a) Power u/s 482 Cr.P.C. vested with this Court is not affected by Section 320 of the Code.
- (b) However, wider the power greater the caution.
- (c) The underlining principle while exercising such power is that it can be invoked to quash the proceedings recognizing compromise between the parties in the matters which are overwhelmingly and predominantly of civil character like commercial transactions or arising out of matrimonial relationship or family disputes.
- (d) The said power is not to be exercised in the prosecutions involving heinous and serious offences of mental depravity or offences like murder, rape, dacoity etc. as such offences are not private in nature and have a serious impact on society.
- (e) Section 482 Cr.P.C. casts duty upon the High Court to advance interest of justice as well. It is in recognition of this duty casted upon the High Court, that Apex Court held that the High Court would not refuse to quash FIR under Section

307 merely because FIR finds mention thereof. High Court can assess nature of injuries sustained, whether such injuries inflicted on vital/delicate parts of the body/nature of weapons used etc.

(f) Such exercise at the hands of High Court would be permissible only after the evidence is collected after investigation and chargesheet is filed/charges framed during the trial. Such exercise cannot be carried out while the matter is still under investigation.

(g) While quashing FIR in non-compoundable offences even which are of private in nature, High Court is required to consider antecedents of the accused, conduct of the accused and whether he was absconding or whether he has managed the complainant to enter into a compromise.

8. Thus, keeping in view the aforesaid facts and circumstances, this Court is of the considered opinion that it is a fit case to exercise jurisdiction vested u/s 482 Cr.P.C. to quash the FIR as :-

- (i) The present matters do not fall within the exceptions as carved out in **Laxmi Narayan's** case (supra).
- (ii) The offences are of private nature.
- (iii) The parties have compromised.
- (iv) As per the report received the compromise is said to be voluntary in its nature.
- (v) Complainant/victim has entered into compromise on his own volition.

9. Consequently, the petitions are allowed. FIR No.141, dated 02.12.2022 registered for the offences punishable under Sections 326, 34 of

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the Indian Penal Code, 1860 (for short, 'the IPC'), at Police Station Bhindi Saidan, Amritsar Rural, District Amritsar and cross-case/GD No.29 dated 20.12.2022 registered for the offences punishable under Sections 326, 427, 506, 34 of the IPC of the same Police Station and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

10. A copy of this order be kept on the file of other connected case.

March 19, 2024	(PANKAJ JAIN)
Dpr	JUDGE
Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No